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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,887	12/12/2003	Alfred E. Paredes	AMC3876	1537
	7590	06/17/2004	EXAMINER	
Sean A. Kaufhold P.O. Box 131447 Carlsbad, CA 92013			SPISICH, MARK	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 06/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/733,887

Applicant(s)

PAREDES, ALFRED E.

Examiner

Mark Spisich

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8 is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 7 includes references to two elements of the handle (the "top and bottom surfaces" in lines 2-3); however, these portions of the handle were not positively recited until claim 2 (and claim 7 depends from claim 1). As such, these terms lack proper antecedent. Applicant should review the claims for any additional informalities.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Riegert et al (USP 4,741,064) in view of Su (USP 4,835,812). The patent to Riegert discloses a paint brush (10) comprising a handle (12) having an elongated forward edge at a second end thereof including a plurality of bristles (fig 1) and a first end (18) thereof including an elongated plate (20) having an attached end within the handle and a free end extending away from the handle. The patent to Riegert discloses the invention substantially as claimed with the exception of the bend. The patent to Su discloses a plate (13) at the end of a paint applicator which includes a bend (132) and which is also

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provided to open the lid of a paint container. It would have been obvious to one of ordinary skill to have modified the plate of Riegert as such as it is shown to be an art-recognized equivalent paint lid prying means.

3. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Manchester et al (USP Des. 117,933) in view of Amato et al (USP 5,419,000). The patent to Manchester discloses, with reference to figs 1-2 thereof, a paint brush with bristles at a second end thereof and further including a plate having a free end as well as an attached end within a first end of the handle. The patent to Manchester discloses the invention substantially as claimed with the exception of the bend. The patent to Amato discloses also discloses a plate (40) disposed at a first end of a paint brush handle (12) and which may include either a straight plate (see fig 2) or a plate with a bend therein (see fig 1). It would have been obvious to one of ordinary skill to have modified the plate of Manchester as taught by Amato (by providing a bend therein) so that the scraping action could be done with a pushing/pulling action. The resultant structure of the noted combination would inherently be capable of being used to open a paint receptacle. The patent to Amato discloses the bend being oriented normal to the top surface of the handle (see fig 1) (claim 2). The dimensions of claims 3-5 would amount to an obvious choice of design to one having ordinary skill in the art.

Allowable Subject Matter

4. Claim 8 is allowed.

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5. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claim 7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The two foreign documents and Jones are pertinent to the combination of a paint brush with an opening means and Hope and Michales are pertinent to brushes with a plate attached to an end thereof.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (6-3:30), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Spisich
Primary Examiner
Art Unit 1744

MS